

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
GREEN BAY DIVISION**

**EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,**

Plaintiff,

CASE NO. 17-CV-00070

vs.

WAL-MART STORES EAST, LP,

Defendant.

DECLARATION OF CARRIE VANCE

I, Carrie Vance, declare as follows:

1. I am an attorney at the Equal Employment Opportunity Commission (“EEOC”) and an adult resident of the State of Wisconsin. I am one of the attorneys of record for Plaintiff, EEOC, and I make this Declaration based upon my personal knowledge.

2. The parties have stipulated that Ms. Spaeth’s backpay, computed in a manner consistent with the Court’s February 22, 2022 Order, is \$44,757.80. *See* Stipulation (ECF No. 270, ¶ 1).

3. The parties have stipulated that the prejudgment interest due on that amount of backpay is \$5,978.63. *See* Stipulation (ECF No. 270, ¶ 2).

4. The sum of \$44,757.80 in backpay, \$5,978.63 in prejudgment interest, \$150,000 in compensatory damages, and \$150,000 in punitive damages is \$350,736.43.

5. Attached as **Exhibit 1** to my Declaration is a true and correct copy of page 15 from the 2021 1040 Tax Table (“Tax Table”), the most recent tax table published by the Internal

Revenue Service. Using the chart at the top of Exhibit 1 and rounding to the nearest dollar as the IRS does, the amount of tax due on income of \$350,736 is computed by multiplying that amount by 35% and subtracting \$25,455.75. That computation results in a tax of \$97,302.

6. Therefore, the effective tax rate for Ms. Spaeth's monetary relief is \$97,302 divided by \$350,736, or 27.742% ("Effective Tax Rate").

7. Attached as **Exhibit 2** to my Declaration is a table summarizing the calculation of the tax component awards for the updated backpay amount and for compensatory damages, as described in greater detail in the paragraphs below.

8. After \$97,302 in taxes are subtracted from \$350,736, the preliminary after-tax amount that would remain is \$253,434. *See* Exh. 2, Column A, Lines 1-4.

Tax Component Award for Backpay

9. Multiplying \$44,578 in backpay by the Effective Tax Rate of 27.742% results in \$12,417 in taxes on backpay.¹ *See* Exh. 2, Column B, Lines 1-2.

10. If \$12,417 in taxes were not due on backpay, the after-tax amount computed in Paragraph 8 would be \$12,417 larger, or \$265,851. (This is the sum of \$253,434 and \$12,417). *See* Exh. 2, Line 8.

11. Using the chart on page 15 of the Tax Table, Exhibit 1, the amount of income needed to result in an after-tax amount of \$265,851 is \$369,839: According to the table, the tax due on \$369,839 is computed by multiplying that amount by 35% and subtracting \$25,455.75. That computation results in a tax of \$103,988. Subtracting tax of \$103,988 from \$369,839 results in the desired after-tax amount of \$265,851. *See* Exh. 2, Lines 9-11.

¹ Equivalently, this same amount can be obtained by noting that backpay is approximately 12.761% of the total amount of monetary relief, and so taxes on backpay are 12.761% of the total tax — or 12.761% of \$97,302, which is \$12,417.

12. Therefore, increasing the monetary relief from \$350,736 to \$369,839 is sufficient to eliminate the effects of taxation on backpay.

13. The difference between \$369,839 and \$350,736 is \$19,103. *See* Exh. 2, Line 12.

14. Accordingly, the tax-component award needed to eliminate the effects of taxation on backpay is \$19,103.

Tax Component Award for Compensatory Damages

15. Multiplying \$150,000 in compensatory damages by the Effective Tax Rate of 27.742% results in \$41,613 in taxes on compensatory damages.² *See* Exh. 2, Column D, Lines 1-2.

16. If \$41,613 in taxes were not due on compensatory damages, the after-tax amount computed in Paragraph 8 would be \$41,613 larger, or \$295,048. (This is the sum of \$253,434 and \$41,613). *See* Exh. 2, Line 16.

17. Using the 2021 Tax Table in Exhibit 1, the amount of income needed to result in an after-tax amount of \$295,048 is \$414,757: According to the table, the tax due on \$414,757 is computed by multiplying that amount by 35% and subtracting \$25,455.75. That computation results in a tax of \$119,709. Subtracting tax of \$119,709 from \$414,757 results in the desired after-tax amount of \$295,048. *See* Exh. 2, Lines 17-19.

18. Therefore, increasing the monetary relief from \$350,736 to \$414,757 is sufficient to eliminate the effects of taxation on compensatory damages.

19. The difference between \$350,736 and \$414,757, is \$64,020. *See* Exh. 2, Line 20.

² Equivalently, this same amount can be obtained by noting that compensatory damages is approximately 42.767% of the total amount of monetary relief, and so taxes on backpay are 42.767% of the total tax — or 42.767% of \$97,302, which is \$41,613.

20. Accordingly, the tax-component award needed to eliminate the effects of taxation on compensatory damages is \$64,020.

21. In sum, the tax-component award that is necessary to eliminate the effects of taxation on Marlo Spaeth's backpay and compensatory damages is the sum of \$19,103 and \$64,020, which is \$83,123.

Taxes due on Interest and Punitive Damages

22. Multiplying \$5,979 in prejudgment interest by the Effective Tax Rate of 27.742% results in \$1,659 in taxes on prejudgment interest. *See* Exh. 2, Column C, Lines 1-2.

23. Multiplying \$150,000 in punitive damages by the Effective Tax Rate of 27.742% results in \$41,613 in taxes on punitive damages. *See* Exh. 2, Column E, Lines 1-2.

24. The EEOC has not sought tax component awards to offset any of the taxes Ms. Spaeth will pay on prejudgment interest or on punitive damages.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 8, 2022.

s/Carrie Vance
Carrie Vance